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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x
4 JANE DOE 43,

5 Plaintiff, New York, N.Y.
6 v. 17 Civ. 616 (JGK)
7 JEFFREY EPSTEIN, et al,
8 Defendants.
9 -----x

10 November 28, 2017
11 3:45 p.m.

12 Before:

13 HON. JOHN G. KOELTL,
14 District Judge

15 APPEARANCES

16 PAUL G. CASSELL (via telephone)
17 Attorney for Plaintiff
18 EDWARDS POTTINGER LLC
19 Attorneys for Plaintiff
BY: STAN POTTINGER
20 STEPTOE & JOHNSON, LLP
21 Attorneys for Defendant Epstein
BY: MICHAEL C. MILLER
22 ALSTON & BIRD, LLP
23 Attorney for Defendant Kellen
BY: ALEXANDER S. LORENZO

24 ALSO PRESENT:

25 SHER TREMONTE, LLP
Attorneys for Interested Party
Haddon Morgan & Foreman, P.C.
BY: KIMO S. PELUSO

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1 (Case called)

2 MR. CASSELL: Good afternoon, your Honor. This is
3 Paul Cassell, from Salt Lake City, Utah, on behalf of Sarah
4 Ransome, Jane Doe 43.

5 THE COURT: Good afternoon.

6 MR. POTTINGER: Good afternoon, your Honor. Stan
7 Pottinger, also for plaintiff Sarah Ransome.

8 MR. PELUSO: Good afternoon, your Honor. Kimo Peluso,
9 Sher Tremonte, for interested party Haddon, Morgan & Foreman.

10 THE COURT: Hold on one second, please.

11 (Pause)

12 THE COURT: Thank you.

13 Who else?

14 MR. LORENZO: Good afternoon, your Honor. Alex
15 Lorenzo, Alston & Bird, for defendant Sarah Kellen.

16 MR. MILLER: Good afternoon, your Honor. Mike Miller,
17 from the law firm of Steptoe & Johnson, for Jeffrey Epstein and
18 Lesley Groff.

19 THE COURT: Jeffrey Epstein and?

20 MR. MILLER: Lesley Groff, G-R-O-F-F.

21 THE COURT: All right.

22 You are all here because I received a letter from
23 Mr. Peluso, on behalf of the Haddon Morgan firm, objecting
24 essentially to the fact that I have approved alternative
25 service on Ms. Maxwell by serving Haddon Morgan, and then I got

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1 a letter memo in opposition by Mr. Edwards.

2 So what do the parties want to do at this point?

3 Mr. Peluso?

4 MR. PELUSO: Yes, your Honor. Thank you.

5 THE COURT: You say that, as I read your papers,
6 Ms. Maxwell can be served in London. Where in London?

7 MR. PELUSO: I don't know, your Honor, that she can be
8 served in London. The point as to her London residence was
9 that plaintiffs are aware of at least one residence where they
10 haven't attempted service, which goes --

11 THE COURT: I'm sorry? The plaintiffs are aware of
12 what?

13 MR. PELUSO: Plaintiff's counsel is aware of at least
14 one residence where they hadn't even attempted service. But
15 really the broader point is they hadn't attempted service at
16 all. And we found the plaintiff's original *ex parte*
17 application to your Honor was based on the representation that
18 Ms. Maxwell was avoiding service and that service had been
19 attempted; and, in actuality, plaintiff's counsel never
20 attempted service.

21 THE COURT: What is the address that you say they
22 should have tried in London?

23 MR. PELUSO: I don't know the address offhand, your
24 Honor, but --

25 THE COURT: You must be able to get that.

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1 MR. PELUSO: Yes, your Honor, we can provide that.

2 Plaintiff's counsel already has that, and I believe they have
3 conceded they already have that, from discovery that was not
4 confidential from the other action before Judge Sweet.

5 THE COURT: I thought that they actually disputed
6 that.

7 MR. PELUSO: No, your Honor. I think there was some
8 confusion. We may have cited to the wrong document on the
9 docket. They disputed that there was any issue as to her New
10 York home, which in fact had been sold. She could not be
11 served in New York. They conceded in their papers that another
12 issue that was subject to discovery was, I believe the way they
13 put it, a flat in London associated with Ms. Maxwell. Their
14 point was that the events that were relevant to the flat in
15 London happened in 2001/2002. So it was too old for them to
16 attempt service there. I don't really follow the argument, but
17 that was the point. They were not disputing that they are
18 aware of a residence associated with Ms. Maxwell in London.

19 THE COURT: But so they are unaware of any address at
20 which she could be served, then. You say that that is no
21 longer a current address.

22 MR. PELUSO: No, your Honor. They said that it is not
23 a current address. I don't know where Ms. Maxwell lives today.
24 I'm not here to report to the court that I know an address
25 where she can be found. What we are here today on is our

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1 application that her law firm, from the prior action, should
2 not be inserted into the middle of this by accepting service.

3 THE COURT: I understand that, but some of your
4 arguments appear to be supportive of an effort avoid service.
5 I know you say that they didn't really try very hard before
6 making the application to me. Why don't I simply extend the
7 time to serve for another 60 days or 30 days, a reasonable
8 time? They appear to have been making a record, even if it
9 wasn't made before the fact, of repeatedly asking your client's
10 firm for a way to get ahold of Ms. Maxwell, all of that
11 unsuccessful, even though your client has recently appeared on
12 behalf of Ms. Maxwell before Judge Sweet. Right?

13 MR. PELUSO: That is correct, your Honor. The case
14 itself was settled, but there have been some post-judgment
15 issues.

16 THE COURT: Right. You relied on the fact that the
17 case in which your client had represented Ms. Maxwell was over;
18 and then, lo and behold, your client shows up representing
19 Ms. Maxwell in this district, so still has the relationship
20 with Ms. Maxwell, enough to be able to appear in this district.

21 MR. PELUSO: Your Honor, we have never taken the
22 position that the Haddon Morgan firm cannot reach Ms. Maxwell.
23 Our point was they decline to accept service, which law firms
24 are requested to accept service on behalf of their clients all
25 the time. Often they say yes, often they say no. I don't

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1 think the court would suggest any wrongdoing with either
2 answer. But obviously a law firm can't accept service if their
3 client won't authorize it.

4 THE COURT: They can't accept service if they are not
5 specifically authorized by the client to accept service.

6 MR. PELUSO: Correct, your Honor.

7 THE COURT: On the other hand, if the court ordered
8 for alternative service that they can be served and that that
9 will be sufficient notice to the client of service, then they
10 can accept service. In fact, they have to accept service,
11 right?

12 MR. PELUSO: Yes. If the court orders the law firm
13 to, then the law firm becomes a vehicle of service. And it is
14 not the passive kind, where the court orders publication or
15 something like leaving it where the party who is attempted to
16 be served is known to frequent. It is actually requiring the
17 law firm to take affirmative acts. And that is the aspect of
18 the order that we raise a strong issue with, especially in a
19 case like this, your Honor, where this is the second plaintiff
20 in a series of allegations that there are dozens of others, no
21 defendant should be put to the choice of appearing in the first
22 case and thereby *de facto* having an agent for service of
23 process for all future cases. The conscription of the law
24 firm of the party for that purpose carries with it some
25 important implications, and that is why we are bringing this

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1 application.

2 THE COURT: There would still have to be personal
3 service, personal jurisdiction over the defendant. The only
4 thing that service accomplishes is notifying the defendant of
5 the existence of the lawsuit and providing the defendant with
6 the opportunity to raise all defenses, including the lack of
7 personal jurisdiction. The service should be fairly
8 straightforward if it is reasonably calculated to give notice
9 to the defendant.

10 Now, I can understand your position that the plaintiff
11 didn't act sufficiently diligently originally to get ahold of
12 Ms. Maxwell and went too quickly to your firm, to your client.
13 I can understand all of that. On the other hand, the plaintiff
14 then puts in all of this correspondence in which they beg you,
15 your client, to accept service, and they get stonewalled. And
16 yet, lo and behold, they appear in this district on behalf of
17 Ms. Maxwell and appear able to contact the client in order to
18 take positions on the client's behalf. So one wonders whether
19 all of this is simply a procedural delay.

20 I realize from the papers that there have been lots of
21 motions in the other case, and I suspect that there will be
22 lots of motions before me, but this shouldn't be a difficult
23 procedure in order to provide sufficient notice to Ms. Maxwell.

24 What am I missing?

25 MR. PELUSO: Your Honor, I think that the -- what I

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would push back against is the idea that the record they have developed shows diligence that warrants alternative service. What they have shown is they asked a law firm to accept service or provide the address information for their client. And they have put in a record now that they asked that many, many times. But that's all they did. They asked the same question many times, which lawyers are free to say no to. And I would submit that it would be an unusual extension of the CPLR provisions for alternative service to grant alternative service merely because a law firm declined to accept service and declined it several times. That is not the basis for the process that brings a party before the powers of the court.

THE COURT: It is not only that, but they appear to have come up against a blank wall for an address for Ms. Maxwell. All of this presumably goes away if your client simply said, Here is an address, here is a physical address, here is an e-mail address, we would prefer that you contact the client directly rather than us. But there is nothing like that. Your client would be free to provide any of that information, but there is no indication here that your client has provided either a physical or an e-mail address for Ms. Maxwell, right?

MR. PELUSO: I don't believe there is anything to that effect in the record before your Honor. I also don't believe there is any representation by plaintiff that they don't have

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1 an e-mail address for Ms. Maxwell. I don't know what they
2 would say to your Honor about what information they have. But
3 we know that they have a London address that they didn't
4 attempt service on.

5 THE COURT: You say it is not a good address, I
6 thought.

7 MR. PELUSO: No. I don't know. I do not know whether
8 she is there today. My understanding is that they had -- my
9 understanding is that either she doesn't have a permanent
10 physical address in the United States or I can say that my
11 client doesn't know one for her. They don't have a way -- they
12 don't have a mailing address for her or physical address for
13 her. I'm not denying that the Haddon Morgan firm can get in
14 touch with her, but I don't know what the situation is in the
15 London address. In the cases where courts allow alternative
16 service, normally if you have an address, you go there, you
17 attempt service, you talk to the neighbors, before skipping all
18 of that and going to service through a law firm that has not
19 been authorized to accept service by their client. And I don't
20 think we would take issue with your Honor's suggestion of
21 extending the time for them to attempt service in another way.
22 Our application is to get the law firm out of it. The law firm
23 should be free to decline accepting service without that being
24 seen as somehow stonewalling.

25 THE COURT: If I gave them another 30 days to make the

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1 record, why at the end of 30 days would I not authorize service
2 on Haddon Morgan as, if no other address comes up, either a
3 physical address or e-mail address, Haddon Morgan has shown an
4 ability to contact the plaintiff and, quite recently, to appear
5 on behalf of the plaintiff in the court. That would then
6 appear to be reasonably calculated to give notice to
7 Ms. Maxwell. Why wouldn't that be right?

8 MR. PELUSO: That would certainly be a stronger
9 application, your Honor, or service may be successful in other
10 ways. But the notion of Haddon Morgan going along with service
11 on the current record and potentially becoming the agent for
12 service of process for this client for this district in however
13 many cases they are going to bring is not something that makes
14 sense for the law firm to accept without bringing this
15 application for the court to reconsider the ruling.

16 THE COURT: Okay. You have certainly diligently
17 opposed the ruling, so let me listen to the plaintiff
18 presumably.

19 MR. PELUSO: Thank you, your Honor.

20 MR. CASSELL: Yes. Thank you, your Honor. This is
21 Paul Cassell on behalf of Sarah Ransome.

22 I know you have had a chance to review our pleadings,
23 so let me just highlight a few things that I think are
24 important here.

25 First, it is important to understand that this

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1 posture that the motion comes to you on is a motion for
2 reconsideration, and so it is the burden of Haddon Morgan to
3 show some reason to change the outcome that is in play right
4 now.

5 We made two procedural points in our opposition,
6 neither of which have been responded to. The first is that the
7 court lacks standing to hear from Haddon Morgan as to why there
8 is some defect in the service on defendant Maxwell. They don't
9 have an interest, they haven't alleged any injury, certainly
10 not a particularized injury of the kind that would be
11 sufficient to create Article III standing, and so the motion to
12 reconsider should be denied for that reason alone.

13 A second concern is timeliness. Ordinarily we
14 wouldn't make a point out of a few days, but I think your Honor
15 has the sense of what's going on here. This appears to be a
16 delay tactic designed to keep this case from getting off the
17 ground, and not because there is some meritorious concern, but
18 simply because there are procedural objections that could be
19 raised for proceduralism's sake.

20 We would call to your Honor's attention that you
21 granted our motion for alternative service on September 29. We
22 in fact served Haddon Morgan on October 9, and yet the
23 opposition or the motion for reconsideration, I guess I should
24 say, was not timely filed. It came in on October 30, and here
25 we are, you know, four weeks later, or something, litigating.

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1 It is simply not timely, and the court should deny it for that
2 procedural reason as well.

3 But let me turn to the merits, and I think your Honor
4 has already made many of the points that I would want to make.
5 We have -- it wasn't simply a matter of developing a record.
6 We were trying to avoid embroiling the court in any service
7 issues which, as you know from the e-mails, we were told by
8 Haddon Morgan that Ms. Maxwell is not permanently settled.
9 That's a direct quote. "I do not believe she has a permanent
10 residence." Those were the representations that we were given.
11 And so we ran into, as I think your Honor pointed out, a brick
12 wall or blank slate. We didn't know how to proceed.

13 Now we have heard from the other side there should
14 have been a bunch of due diligence or prior attempts to serve.
15 In our original motion to the court, we cited this court's
16 decision in *Securities and Exchange Commission v. HGI* that
17 says: Look, a plaintiff has to show a practicability of
18 service, but there is no requirement of proof of due diligence
19 or actual prior attempts to serve a party. That's a quote from
20 a 1999 decision of this court.

21 So I didn't hear anything this afternoon that
22 suggested there was a lack of impracticability, which of course
23 was the basis for the court granting our motion. The only
24 thing we have heard about is that we should have gone hither
25 and yon through London trying to serve Ms. Maxwell there.

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1 Interestingly, though, you will recall that the Haddon Morgan
2 firm filed their letter motion and they cited a newspaper
3 article that said Ms. Maxwell is a British socialite. Well,
4 that same article -- again, this is what the other side was
5 filing -- says that she has been based in the United States
6 since 1999.

7 Now, it is true that we are aware of a client who in
8 2001 was in a flat in London that appeared to be connected with
9 Ms. Maxwell and was sexually abused, but that was 16 years ago.
10 And I guess what the other side is suggesting is that we should
11 go through the Hague Convention, follow procedures there, chase
12 after this flat, and see if somehow that changes things. We
13 cited in our papers that we provided to your Honor last week a
14 previous decision from this court saying, look, going through
15 the Hague Convention just takes so long and creates such
16 significant expense that that in and of itself can be a showing
17 of impracticable.

18 So there isn't any reason, I would submit, for
19 extending things for 30 or 60 days to make us chase through
20 London and spend what I think would be thousands of dollars, if
21 not tens of thousands of dollars, on foreign process service.
22 Again, we would be willing to spend time and money and the
23 court's time and energy if there was some substantive concern
24 here, but this is all designed, as your Honor pointed out, to
25 make sure that Ms. Maxwell knows about the lawsuit. Well, I

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1 think she was just a few doors down from where your Honor is
2 sitting right now with attorneys actually litigating an issue
3 relating to confidentiality of documents in this lawsuit. So
4 that provides, I would think, ample basis for the court to
5 conclude that she already knows about the lawsuit. All we are
6 trying to do is to simply effect service here, get the case
7 moving forward, and then she can raise whatever concerns she
8 wants. We submit that there has been no showing sufficient to
9 justify the court reconsidering its earlier ruling on all these
10 things.

11 THE COURT: Mr. Cassell, a couple of things. You say
12 that she was just a few doors down. Her lawyers were here.
13 Any reason to believe that she was here?

14 MR. CASSELL: No. I'm sorry if I said she was. She
15 was there through counsel, and we would submit that that is
16 effectively constructively appearing before your Honor, because
17 the litigation in front of Judge Sweet involved confidentiality
18 connected to this particular case.

19 THE COURT: Yes, but that is stretching it just a bit.
20 The other item is that it appeared -- and you can
21 correct me if I am wrong -- that all of the e-mail
22 correspondence about service was something that occurred after
23 the Haddon Morgan firm was served, or was it before?

24 MR. CASSELL: It is both before and after. It was
25 back as far as February of this year that we were trying to

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1 work through the firm. We followed up again in March. If I
2 have the chronology right, we followed up again in May. And
3 then just as recently as November 7, we realize your Honor's
4 time is valuable, we said, Look, we don't want to burden the
5 court with this issue, if you can just give us something to
6 follow up on. We sent that e-mail on November 7 and, to my
7 knowledge, here we are three weeks later and have not received
8 any response from the Haddon Morgan firm. So we have tried to
9 do what we could to make contact through the Haddon Morgan
10 firm.

11 THE COURT: My problem here, Mr. Cassell, is simply
12 not wanting to have the possibility of an error in service at
13 the outset of the case when the error, it would seem to me,
14 could be easily corrected if, in fact, there were error.

15 The motion for reconsideration says, in essence,
16 Judge, you didn't have a sufficient record before to you say
17 that service was really impracticable. The plaintiff has
18 attempted to come forward now with all of this subsequent
19 information, none of which really was before you at the time.
20 I plainly have the ability, irrespective of the standing of
21 Haddon Morgan or the timeliness of the application, to
22 reconsider my own order and to extend the time for service in a
23 way that assures that there can't be any error.

24 Now, Haddon Morgan has gone quite far, and you have
25 gone quite far in showing the impracticability of service on

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1 Ms. Maxwell and indeed the stonewalling of efforts to find an
2 address or an e-mail address for Ms. Maxwell, but none of that
3 was in the record before me at the time that I authorized
4 service on Haddon Morgan as an alternative means of service.

5 Now, if Ms. Maxwell chooses to start the litigation
6 this way before me, not a good way to begin litigation, but so
7 be it. Motions over effective service are seldom made because
8 so easily cured, and at the end of the day, the effect of
9 motions like this is simply to chip away at parties'
10 credibility. If any parties wishes to start this way, so be
11 it.

12 I want to make sure that everything I do in the case
13 is right. I am somewhat persuaded by the argument that the
14 showing of impracticability at the outset left something to be
15 desired in view of everything that has been presented to me
16 since then.

17 You are welcome to respond to all of that. My
18 inclination is simply to extend the time to serve on
19 Ms. Maxwell until January 5, at which time the plaintiff can
20 indicate that service has been made or apply for alternative
21 service. If there is an application for alternative service,
22 any response should be filed quickly, by January 12, and I will
23 decide it on those papers.

24 Haddon Morgan has already protectively sought an
25 extension of time to move or answer for 60 days, so when does

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1 that expire?

2 MR. CASSELL: That expires, I believe, within -- after
3 21 days after this particular motion has been resolved.

4 THE COURT: No reason that I shouldn't -- I assume
5 that these procedural matters will be disposed of soon after
6 January 12, so --

7 MR. CASSELL: Your Honor, could I be heard just
8 briefly on the time frame that you are contemplating there?

9 THE COURT: By all means.

10 MR. CASSELL: I am not an expert in the Hague
11 Convention but I am informed by others that a 60- to 90-day
12 timeline is the minimum amount of time for service through the
13 Hague Convention. The timeline that you are setting up might
14 work if we were chasing after someone in Manhattan, but we are
15 chasing after someone in a foreign country.

16 A related point is the issue of cost. This is going
17 to cost tens of thousands -- I'm sorry, thousands of dollars,
18 if not tens of thousands of dollars, to attempt to do this and,
19 as you know, Sarah Ransome lacks resources here. So I think
20 your Honor was making a point that this is not a good way to
21 start the litigation for Ms. Maxwell. I submit that they will
22 be returning to their offices high-fiving because they have
23 required someone who lacks resources to spend thousands and
24 thousands of dollars simply attempting to effect service in a
25 situation where, as of last week, they had lawyers in the

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1 Southern District of New York actually litigating an issue
2 related to the very issues that we are talking about. So we
3 would ask that those factors be considered.

4 And related to that, Haddon Morgan obviously has
5 contact information for Ms. Maxwell. They could be directed by
6 your Honor to provide all the contact information that they
7 have to us in an effort to minimize those costs. So those
8 sorts of things, we would submit, should be considered by your
9 Honor in looking at the motion to reconsider.

10 We realize that we did not make as extensive a record
11 as we could have in initial pleading, but I do think that our
12 initial pleading said that it was implausible, here is why. We
13 didn't burden the court with all of the e-mails and other
14 things at that time. So if the question is whether the record
15 was sufficiently developed, then I would submit it's much more
16 developed today and you could simply deny the motion to
17 reconsider based on the record that you have today; or if your
18 Honor would feel more comfortable in terms of avoiding any
19 error, you could give us the opportunity to re-serve Haddon
20 Morgan now in light of the new record that we have developed,
21 and you could grant the alternative service motion based on the
22 record as it exists this afternoon.

23 THE COURT: Mr. Peluso.

24 MR. PELUSO: Yeah. Your Honor, I don't want to advise
25 plaintiff on how to proceed, but I would suggest that they

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1 examine the Hague Convention, they examine Article 10, they
2 examine those countries that have opted in to Article 10 and
3 determine whether service on a UK address can be accomplished
4 by registered mail before making representations that this
5 process will cost their client thousands of dollars and take 60
6 to 90 days. And if they look into those things and want to
7 make those representations, they can. I suspect if they look
8 into those things, they will not.

9 I also just have to take issue with the suggestion
10 that we had stonewalled them by refusing to provide an e-mail
11 address. There was electronic discovery in the earlier case.
12 They certainly have e-mails belonging to Ms. Maxwell. I don't
13 think we heard any representation to the contrary. I don't
14 know what those e-mail addresses are. I suspect plaintiff's
15 counsel knows a lot more about Ms. Maxwell's e-mails than we
16 do. No one is suggesting from my client any relief that will
17 add months to this process or cost thousands of dollars to
18 Ms. Maxwell by any means.

19 THE COURT: Mr. Cassell, Mr. Peluso suggests, first,
20 that there is an easier way of service under the Hague
21 Convention in Great Britain, but that of course depends upon
22 having an address in Great Britain. He suggests that you
23 actually probably in discovery, which I believe you are able to
24 access with the recent order of Judge Sweet, have access to
25 electronic communications that were copied to Ms. Maxwell.

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Finally, what you were suggesting of supplementing the record of what could have been given to me at the outset or could be given to me now can all be raised at the end of the month or before with a renewed application for alternative service if in fact this matter has not been resolved before then. If in fact you are right that all of this information shows that it is impractical to serve Ms. Maxwell, then presumably there are alternative means of notice to Ms. Maxwell. Among those would possibly be Haddon Morgan and service by an e-mail address.

Finally, I decide every motion in an effort to be right. It is the parties who have to deal with whether I am right or not. All I have to do is to decide every motion in the best way that I can and leave to all of you whatever the consequences of that are.

It would be not the best way to start off the case for a plaintiff to say, well, we may not have made the showing to you that we could have or should have made, but blow through it, Judge, live with it. I don't do that. I try to decide every case in the best way that I can. And it seems to me clear that you won't have to spend thousands of dollars in order to effect service, but you do have to have made the diligent inquiries to attempt service before going to the alternative method of service. What that involves, I don't know at the moment, but that is really up to the parties.

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1 MR. CASSELL: Your Honor, perhaps could I ask one
2 question of opposing counsel? Because I think this might be
3 one way of cutting through all this. Let me just tell you what
4 the one question would be. Isn't it true that Ms. Maxwell
5 already has notice of this lawsuit?

6 THE COURT: Well, Haddon Morgan can answer if they
7 want.

8 MR. PELUSO: I honestly don't know, your Honor. I
9 suspect someone at Haddon Morgan can answer that. I could find
10 out, but I don't think that is service, your Honor.

11 MR. CASSELL: That's the whole purpose of why we are
12 here, your Honor. And, frankly, I think that is one of the
13 reasons why Haddon Morgan is not appearing in front of you
14 today, but has hired sort of a surrogate, if you will, so there
15 is a plausible deniability, or whatever the phrase would be.
16 Perhaps one way to proceed would be to ask Haddon Morgan that
17 question through counsel that's here today and if they respond
18 that, yes, Ms. Maxwell does indeed have notice of the lawsuit,
19 at that point I would assume that that amply protects any
20 record or shows that all of these hearings and motions and so
21 forth are much ado about nothing, and we could then move with
22 service through Haddon Morgan, since it accomplished the goal
23 that it was designed to accomplish.

24 THE COURT: That is not right, actually. The fact
25 that the defendant has notice, if you will, of the lawsuit

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1 doesn't substitute for service of the summons and complaint.

2 True that alternative service is meant to provide notice --

3 and, again, the parties can correct me if I am wrong -- but it

4 doesn't simply dispose of the requirement for service of the

5 summons and complaint.

6 MR. CASSELL: But our limited point, your Honor -- I

7 appreciate the clarification there, but our limited point was

8 that the alternative service motion is designed to provide

9 notice reasonably calculated under all of the circumstances to

10 apprise interested parties of the pendency of the action. And

11 if that appraisal function has already been accomplished, to

12 even have to spend one additional dollar or one additional

13 month tracking things down through London is energy and time

14 and money being expended for no purpose whatsoever,

15 particularly where -- I agree that the summons and so forth

16 should be provided to Ms. Maxwell, but no one is disputing that

17 that will take more than a few seconds on a keyboard for Haddon

18 Morgan to forward it along to their client.

19 THE COURT: Okay. Well, where I was was I will extend

20 the time for service on Ms. Maxwell until January 5, at which

21 point the plaintiff can either file proof of service or an

22 application for alternative service. And just so that there is

23 no question, the application for alternative service, whatever

24 you believe is most appropriate for alternative service should

25 also be filed, because they have appeared for a limited purpose

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1 on Haddon Morgan.

2 Any response can be filed by January 12.

3 The time to move or answer is 30 days after service in
4 response to the court's decision on service. That will not
5 lose us much time.

6 Any other deadlines or procedural tasks that I should
7 deal with in this order?

8 MR. MILLER: Your Honor, Mike Miller for Jeffrey
9 Epstein and Lesley Groff.

10 We are scheduled to file a supplemental motion to
11 dismiss within seven days of the issuance of a confidentiality
12 or protective order in this case. We have a draft of it that
13 we will be circulating to the parties hopefully tomorrow or the
14 day after. I guess the only question from a scheduling
15 perspective is whether it makes sense to stay motion practice
16 on the balance of the case until after the service issue is
17 resolved. We are content to go either way, subject to the
18 court's pleasure on the issue, but I just point that out. That
19 could result in motion practice happening sequentially rather
20 than simultaneously.

21 THE COURT: Mr. Cassell, do you want the rest of the
22 defendants to answer or move to dismiss without waiting for
23 Ms. Maxwell?

24 MR. CASSELL: Yes, your Honor.

25 THE COURT: I thought that would be the response,

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1 so --

2 MR. MILLER: That's fine, your Honor.

3 THE COURT: -- that motion schedule stands.

4 Okay.

5 MR. CASSELL: Mr. Pottinger may want to step in on
6 this, but we would like to file a single response to all of the
7 supplemental and various motions to dismiss coming in from the
8 various defendants, so we would ask for an opportunity to
9 respond with one single response 14 days after all of the new
10 information comes in from the various defendants.

11 THE COURT: I assume for everyone but Ms. Maxwell.

12 MR. CASSELL: Yes, your Honor.

13 THE COURT: It seems reasonable to me. Consolidated
14 response by the plaintiff 14 days after the supplemental papers
15 by the defendants.

16 And then the reply?

17 MR. MILLER: Your Honor, we respectfully request 14
18 days after we receive the response for the reply brief. And I
19 say that without knowing how that lands in terms of holidays,
20 towards the end of December.

21 Could I suggest this? Rather than set dates right now
22 for the response and the reply, I can tell you, on behalf of
23 the clients I represent -- and I suspect it is true for the
24 other defendants -- that we won't object to a briefing schedule
25 that consolidates the motions other than Maxwell's, but perhaps

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1 we could meet and confer on that issue and submit a proposed
2 schedule to the court once we have a protective order issued
3 from the court.

4 THE COURT: That's fine by me.

5 Mr. Cassell?

6 MR. CASSELL: That sounds like an excellent approach.
7 We agree.

8 THE COURT: Okay. So submit the proposed schedule to
9 me.

10 Anything else? All right. Good afternoon all.

11 MR. CASSELL: Thank you, your Honor.

12 THE COURT: Sure.

13 MR. PELUSO: Thank you, your Honor.

14 MR. MILLER: Thank you, your Honor.

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